

FINAL STATEMENT OF REASONS:

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend 24 sections of the California Code of Regulations (CCR), Title 15, Division 3, for the purpose of updating current regulatory text and definitions primarily related to the CDCR, Division of Adult Parole Operations (DAPO).

These proposed regulations are necessary in order to accurately reflect the changes that have occurred within the Department due to the 2005 reorganization as directed by Senate Bill 737 (2005/2006 session). These proposed changes include, but are not limited to, name changes to individual units, titles, and positions. In addition, for the purpose of clarifying current language and to meet departmental standards, definitions of various terms focusing on the parole and the parole revocation process, have been amended or added. These changes will help to enhance the department's ability to supervise parolees, which in turn will assist in a more successful reintegration back into the community.

These regulations also provide amendment to the text concerning the former California Department of Corrections (CDC) Form 163, Certificate of Discharge, which has been revised.

Because there are over 1,400 forms for use within the Department and its adult operations, with the vast majority of these forms used by staff and/or internal management, the Department pursuant to CCR, Section 20(c)(1) has determined that it would be impractical, cumbersome and unnecessary to publish this form in the CCR. With an established form ordering and distribution process already in place, staff would have no need for, and would not utilize the CCR in order to have access to this form. As is the case with the referenced CDCR Form 163, staff already have the ability to obtain and distribute the form as necessary.

3000. Definitions.

Section 3000 is amended to introduce new definitions and amend current language primarily related to DAPO. Some changes include, but are not limited to, the deletion of the reference to hearing agents and hearing coordinators which were reclassified and whose duties were assumed by the Board of Parole Hearings. Definitions of unit supervisor, regional parole administrator, and parole agent have been modified. Reference to the Parole and Community Services Division is replaced with the Division of Adult Parole Operations.

This section also includes a new definition for: adverse witness; arrest; child; collateral contact; control service; court order; department; deputy regional parole administrator; district administrator; face-to-face contact; felony; field contact; general conditions of parole; high control; hold; inmate; our hold only; parole agent; parolee field file; parole hold; process; residence; serious offense; special conditions of parole; violent offenses; and writ where there previously was none.

3001. Subject to Regulations.

Section 3001 is amended for correction purposes. Reference to the former "director" of the abolished Department of Corrections is replaced with "Secretary" of the CDCR. This change reflects the correct position title. In addition, to reflect the correct position title, reference to the "parole region administrator" is replaced with "regional parole administrator."

3041.3. Inmate/Parolee Access to Computers.

Subsections 3041.3(a) through 3041.3(m) are unchanged.

Subsection 3041.3(n) is amended to change the reference to the title of the person in the parole office who is responsible for ensuring the security of all computers and computer-related equipment within the parole office. For correction purposes, reference to “administrator” is replaced with “unit supervisor.”

3075.3. Discharge Certificates.

Subsection 3075.3(a) is amended for correction purposes. The acronym “CDC” is replaced with “CDCR” in reference to the revised CDCR Form 163, Certificate of Discharge.” In addition, the revision date of (Rev. 7/92) is changed to reflect the current version (Rev. 10/06) so the revised form now reads, CDCR Form 163 (Rev. 10/06), Certificate of Discharge, which is incorporated by reference into the regulations. Changes to the form includes adding reference and explanation of Penal Code sections 4852 and 4853, voter registration, and the latest updated telephone numbers to the Regional Parole Offices.

3294.5. Inmate Name Change.

Subsections 3294.5(a) through (c) are unchanged.

Subsection 3294.5(d) is amended to delete the reference to the “assistant deputy director” and replace it with “deputy director.” This is necessary in order to reflect the correct position title. For correction purposes, reference to the “Parole and Community Services Division” is replaced with “Division of Adult Parole Operations.” This reflects the correct name for the parole division. In addition, the acronym “P&CSD” is deleted and replaced with “DAPO” for clarity and consistency with the rest of these regulations.

Subsection 3294.5(e) is amended to delete the reference to the “assistant deputy director” and replace it with “deputy director.” This is necessary in order to reflect the correct position title. In addition, this section is also amended to delete the acronym “P&CSD” and replace it with “DAPO” for clarity and consistency with the rest of this section.

Subsection 3294.5(f) is amended to delete the reference to the “assistant deputy director” and replace it with “deputy director” in order to reflect the correct position title. In addition, this section is also amended to delete the acronym “P&CSD” and replace it with “DAPO” for clarity and consistency with the rest of this section.

Subsections 3294.5(g) through (k) are unchanged.

Subsection 3294.5(l) is amended for correction purposes. Reference to the former “Director” of the abolished Department of Corrections is replaced with “Secretary” of the CDCR to reflect the correct position title.

3356. Health Care Treatment for Parolees.

Subsection 3356(a) is unchanged.

Subsection 3356(b) is amended to delete the reference to the “parole district administrator” and to replace it with “district parole administrator” in order to reflect the correct name for the title of the person

in this position. This section is also amended to add the words “or their designee” after the words “district parole administrator” to enable another person filling in for the district parole administrator to make arrangements for a parolee to return to department custody for emergency medical treatment.

3369.5. Research.

Subsection 3369.5(a) is amended for correction purposes. Reference to the former “Director” of the abolished Department of Corrections is replaced with “Secretary” of the CDCR. This is necessary in order to reflect the correct position title name.

3370. Case Records File and Unit Health Records Material – Access and Release.

Subsection 3370(a) through 3370(d) are unchanged.

Subsection 3370(e) is amended to delete the reference to “Board of Prison Terms” and replace it with “Board of Parole Hearings.” This is necessary in order to reflect the correct name of the parole board.

3376.1. Departmental Review Board.

Subsection 3376.1 is amended for correction purposes. Reference to the former “Director” of the abolished Department of Corrections is replaced with “Secretary” of the CDCR. This is necessary in order to reflect the correct position title name.

Subsection 3376.1(a) is unchanged.

Subsection 3376.1(a)(1) is amended to delete the reference to the “deputy director or an assistant director of the institutions division” and replace it with “director or deputy director of the adult institutions division.” This is necessary in order to reflect the correct position title.

Subsection 3376.1(a)(2) is amended to delete the reference to the “deputy director or an assistant director of the parole and community services division” and replace it with “director or deputy director of the division of adult parole operations.” This is necessary in order to reflect the correct position title.

Subsections 3376.1(a)(3) through 3376.1(d)(3) are unchanged.

Subsection 3376.1(d)(4) is amended to delete the reference to the “Board of Prison Terms” and replace it with “Board of Parole Hearings” in order to reflect the correct name of the parole board.

Subsections 3376.1(d)(5) through 3376.1(e) are unchanged.

3382. Incident Reports.

Subsection 3382(a) is amended for correction purposes. Reference to the former “Director” of the abolished Department of Corrections is replaced with “Secretary” of the CDCR. This is necessary in order to reflect the correct position title. This subsection has also been amended to reduce the time limit that a warden or superintendent has to submit a written report to the Secretary following a verbal notification of any event or activity which may be of immediate interest or concern to the department, other agencies, or the news media. The time limit is changed from 72 hours to 24 hours. In addition, this

section is amended to delete “Parole and Community Services Division” and replace it with “Division of Adult Parole Operations” for clarity and consistency with the rest of this section.

Subsection 3382(b) is amended to put a comma after the words “but are limited to” so that it is grammatically correct and meets departmental standards.

Authority and reference citation for Section 3382 is added to the text.

3383. State of Emergency.

Subsection 3383(a) is amended to delete the reference to the “assistant deputy director” and to replace it with “deputy director” in order to reflect the correct position title. This section is also amended to delete the reference to the “Parole and Community Services Division” and to replace it with “Division of Adult Parole Operations” in order to reflect the correct name of the organization that it refers to. In addition, the acronym “P&CSD” is deleted and replaced with “DAPO” for clarity and consistency with the rest of this subchapter.

Subsection 3383(b) is amended for correction purposes. Reference to the former “Director” of the abolished Department of Corrections is replaced with “Secretary” of the CDCR. This is necessary in order to reflect the correct position title.

Subsections 3383(b)(1) through (3) are unchanged.

Subsection 3383(c) is amended to delete the reference to the “assistant deputy director” and to replace it with “deputy director” in order to reflect the correct position title. This section is also amended to delete the reference to the acronym “P&CSD” and to replace it with “DAPO” for clarity and consistency with the rest of this section.

Subsection 3383(d) is amended to delete the reference to the “assistant deputy director” and to replace it with “deputy director” in order to reflect the correct position title. This section is also amended to delete the reference to the acronym “P&CSD” to replace it with “DAPO” for clarity and consistency with the rest of this section. In addition, a comma is placed after the word “DAPO” for purposes of grammar.

3393. Uniforms, Badges, and Insignia.

Section 3393(a) is amended to delete the reference to the “director” and to replace it with “Secretary” in order to reflect the correct position title. This section is also amended to delete the word “excepted” and replace it with “exempted” in order to correct a spelling error.

Section 3393(b) is amended to delete the reference to the “Department of Corrections” and to replace it with “California Department of Corrections and Rehabilitation” in order to reflect the correct name of the organization.

Section 3393(c) is amended to delete the reference to the “parole regional administrator” and to replace it with “regional parole administrator” in order to reflect the correct position title.

3401. Employee and Inmate/Parolee Relations.

Subsections 3401(a) and (b) are unchanged.

Subsection 3401(c) is amended to delete the reference to the “deputy director” and replace it with “director” and to replace “assistant director” with “assistant secretary” in order to reflect correct position titles.

Section 3401(d) is amended to delete the reference to the “deputy director” and replace it with “director” and to replace “assistant director” with “assistant secretary” in order to reflect the correct position titles.

Subsections 3401(e) through (e)(3) are unchanged.

3402. Central File.

Subsection 3402(a) is amended for correction by making a grammatical change to the text by replacing the word “is” with “are” concerning the contents of an inmate’s file “are” private and privileged information.

Subsection 3402(b) is amended to change the reference to the location where central files are maintained. To accurately reflect the location, reference to parole region office is changed to appropriate case records office.

Authority and reference citation is added to Section 3402.

3405. Legal Assistance to Inmates and Parolees.

Subsection 3405 is amended to correct the reference to “regional administrator” and replace it with “regional parole administrator” in order to reflect the correct position title.

Authority and reference citation is added to Section 3405.

3406. Committed Relatives and Friends of Employees.

Section 3406 is amended to delete the reference to the “deputy director” and to replace it with “director” in order to reflect the correct position title. The action is also amended to delete the reference to the “assistant director” and to replace it with “assistant secretary” in order to reflect the correct position title.

Authority and reference citation is added to Section 3406.

3407. State Supplies.

Subsection 3407 is amended to delete the reference to the “regional administrator” and to replace it with “regional parole administrator” in order to reflect the correct position title.

Authority and reference citation is added to Section 3407.

3408. Vehicles.

Subsection 3408 is amended to delete the reference to the “regional administrator” and to replace it with “regional parole administrator” in order to reflect the correct position title.

Authority and reference citation is added to Section 3408.

3410. Intoxicants and Drugs.

Subsection 3410(a) is unchanged.

Subsections 3410(b) through 3410(d) are amended to delete the reference to the “regional administrator” and to replace it with “regional parole administrator” in order to reflect the correct position title.

Authority and reference citation is added to Section 3410.

3411. Reporting of Arrest or Conviction, Change in Weapons or Driving Status.

Section 3411 is amended to delete the reference to the “deputy/assistant director” and to replace it with “appropriate director/assistant secretary” in order to reflect the correct position title. In addition, a comma is added after the term “department” to correct a grammatical error.

3414. Identification Card.

Subsection 3414 is amended to delete the reference to the “regional administrator” and to replace it with “regional parole administrator” in order to reflect the correct position title. In addition, a comma is placed after the word “superintendent” to correct a grammatical error.

Authority and reference citation is added to Section 3414.

3430. General Policy.

Subsection 3430 is amended to delete the reference to the “Parole and Community Services Division” and to replace it with “Division of Adult Parole Operations” in order to reflect the correct name of the parole division.

Authority and reference citation is added to Section 3430.

3432. Hours of Employment.

Subsection 3432 is amended to delete the reference to the “regional administrator” and replace it with “regional parole administrator” and to replace “director” with “Secretary” in order to reflect the correct position titles.

Authority and reference citation is added to Section 3432.

3433. Vacations.

Subsection 3433 is amended to delete the reference to the “regional administrator” and to replace it with “regional parole administrator” in order to reflect the correct position title. This section is also amended to place a comma after the word “superintendent” for clarity and consistency with the rest of this section.

Authority and reference citation is added to Section 3433.

DETERMINATION:

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.

ASSESSMENTS, MANDATES, AND FISCAL IMPACT:

This action will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California.

The Department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

The Department determines this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states because they are not directly affected by the internal management of State prisons; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561. The Department has made an initial determination that the proposed action will have no significant effect on housing costs. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

PUBLIC HEARING COMMENTS

Public Hearing: Held August 21, 2008, at 9:00 a.m.

No one commented at the Public Hearing.

SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS:

Commenter #1:

Comment 1A: Commenter provided the following text statement:

“On page 3 of the Initial Statement of Reasons for the Notice of Change to Regulations Number 08-02, under Subsection 3376.1(a)(2) does not include the change of the reference to the “deputy director or an assistant director” to be replaced with “director or deputy director” as Subsection 3376.1(a)(1) does.

Accommodation: The Final Statement of Reasons has been updated to include reference to the “deputy director or an assistant director” concerning Subsection 3376.1(a)(2). No actual changes were made to the original proposed text.

Commenter #2:

Comment 2A: Commenter suggests an addition of Penal Code Sections 1506 and 1507 to the list of authorities cited under the definition of “writ.” Commenter states that these sections require performance

upon issuance of either a civil or criminal writ of habeas corpus, and thus meet the proposed definition of the word “writ” in the text of proposed regulations.

Accommodation: None.

Response 2A: Department contends that the term “writ” is a general term. There are many types of writs, as well as many different codes, including the Penal Code, that contain provisions on writs. Penal Codes 1506 and 1507, as suggested by the commenter, do not define the general term “writ,” nor do they define the particular “writ of habeas corpus,” as referenced by the commenter. Therefore, it is the position of the Department that reference to Penal Code sections 1506 and 1507 shall not be included as references for the proposed addition to Section 3000.